REMARKS

In the Office Action mailed August 2, 2004, the Examiner objected to claim 5 for an informality (Office Action [hereinafter "OA"], paragraph 2); rejected claims 1-21 under 35 U.S.C. § 112, second paragraph, as being indefinite; (OA, paragraph 3); and rejected claims 1-21 under 35 U.S.C. § 103(a) as being unpatentable over McDonough et al. (U.S. Patent No. 6,070,142) in view of Simor (U.S. Patent No. 5,060,150) (OA, paragraph 4).

In view of the remarks that follow, Applicant respectfully traverses the Examiner's rejections of the claims under 35 U.S.C. §§ 103(a) and 112.

The Examiner objected to claim 5, indicating that "one or more object" should be changed to "one or more objects." Applicant has herewith amended claim 5 in accordance with the Examiner's suggestion.

The Examiner rejected claims 1-21 under 35 U.S.C. § 112, second paragraph, as being indefinite. Specifically, the Examiner alleged that it is not explicitly clear whether a "call duration value associated with the second process" refers to an operating system call or a telephone call. Applicant has herewith amended claims 1, 10-12, and 17 to indicate that the call duration value is a call duration value *of a communication* associated with the second process. Accordingly, Applicant respectfully submits that this rejection is overcome and should be withdrawn.

The Examiner rejected claims 1-21 under 35 U.S.C. § 103(a) as being unpatentable over McDonough et al. in view of Simor. Applicant respectfully traverses this rejection.

To establish a prima facie case of obviousness, three basic criteria must be met. First, the prior art reference as modified must teach or suggest all the claim elements. Second, there must be some suggestion or motivation, either in the reference or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine the reference teachings. Third, a reasonable expectation of success must exist. Moreover, each of these requirements must "be found in the prior art, and not be based on applicant's disclosure." (M.P.E.P. § 2143.03 (8th ed. 2001)).

Regarding claim 1, the Examiner alleged that the references teach providing "an indication to the first process of the expected time before the resource will become available determined based on a call duration value associated with the second process," pointing to col. 15, lines 30-33 and col. 12, lines 60-67 of McDonough et al. in doing so. Applicant respectfully disagrees with the Examiner's interpretation of the references.

McDonough et al. discloses a virtual customer sales and service center that can connect a customer to a customer access resource (abstract). A server 380 is operable to determine which resources are available for a contact and provide a real-time status of each of the resources' availability (col. 8, lines 8-12). If the server 380 indicates that an optimal resource is not available, overflow resources may be checked for availability (col. 8, lines 13-18).

The Examiner, in rejecting claim 1, refers to col. 15, lines 30-33 and col. 12, lines 60-67 of McDonough et al., as an alleged teaching of providing "an indication to the first process of the expected time before the resource will become available determined based on a call duration value associated with the second process." Col. 12, lines 60-

67 is concerned with automatically balancing contacts between resource locations. Col. 15, lines 30-33 of McDonough et al., is concerned with checking routing rules for overflow processing when a statistics server (e.g., server 180) indicates that an optimal resource is not expected to be available within a desired timeframe.

Nothing that the Examiner emphasized nor anything else in McDonough et al. shows providing "an indication to the first process of the expected time before the resource will become available determined based on a call duration value associated with the second process." For example, assuming arguendo, that a "desired timeframe" is analogous to an expected time before the resource will become available, nothing in McDonough et al. suggests that this desired timeframe is determined based on a call duration value associated with the second process, as alleged by the Examiner. In addition, nothing in McDonough et al. suggests that this desired timeframe is provided to a first process. Moreover, the Examiner's alleged teachings do not show that the first process retries requesting of the resource at a later time based on this desired timeframe.

Simor is not sufficient to overcome the aforementioned deficiencies of McDonough et al. Simor discloses a system in which a process termination monitor may be requested at each resource allocation for a process (col. 17, lines 55-57). Resource managers are accordingly notified when the process terminates, and the resource release can be initiated by the resource manager itself (col. 17, lines 57-59). This configuration disclosed by Simor, however, does not provide "an indication to the first process of the expected time before the resource will become available." Moreover, Applicant notes that the Examiner used Simor to allege a teaching of using

monitors to notify resource monitors when an allocating process terminates, and releasing the resource by the resource manager when it is notified, not to allege a teaching of providing "an indication to the first process of the expected time before the resource will become available."

Because the references fail to teach or suggest the features that the Examiner asserts, a *prima facie* case of obviousness has not been established. Accordingly, Applicant submits that the rejection of claim 1 is unsupported by McDonough et al. in view of Simor. Because independent claims 10-12 and 17 recite language similar to that which distinguishes claim 1 from McDonough et al. and Simor, Applicant further submit that the rejections of claims 10-12 and 17 are unsupported by McDonough et al. in view of Simor. for at least the reasons given with respect to claim 1.

The rejections of dependent claims 2-9, 13-16, and 18-21 are unsupportable for the reasons stated above with regard to their respective base claims. Moreover, Applicant respectfully submits that these claims are distinguishable over the applied references for their own features.

Because none of the Examiner's rejections of the claims are supportable, each of the claims is allowable. Accordingly, Applicant respectfully requests the timely allowance of this application.

If an extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this Amendment, such extension is requested. If there are any other fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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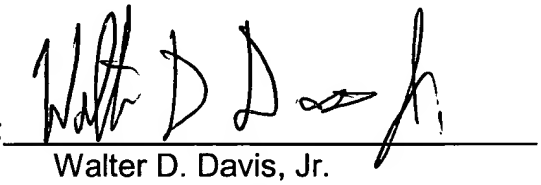
By: 

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